



VICTORIAN BAR

FAREWELL

FAREWELL ADDRESS BY JENNIFER BATROUNEY QC, PRESIDENT OF THE VICTORIAN BAR – TUESDAY 6 JUNE 2017 IN THE COUNTY COURT UPON THE RETIREMENT OF HIS HONOUR JUDGE GRAHAM ANDERSON

May it please the Court.

I appear on behalf of the Victorian Bar to pay tribute to Your Honour's service in the Law over the course of the last 47 years, in particular, of course, the last 19 years as a Judge of this Court.

Before I commence, I acknowledge the traditional custodians of the land on which we meet – the Wurundjeri people of the Kulin Nation – and pay my respects to their elders, past and present.

Your Honour read with the late Peter Liddell (later QC) who had a remarkably broad practice in the Supreme Court.

Your Honour said at your Welcome that you learned from Liddell the importance of thorough preparation and "a much-needed degree of toughness".

Evidently Your Honour learned that well. Your opponents at the Bar – and those who have appeared in Your Honour's Court – testify to that quality in Your Honour.

You yourself joked about it. When you were at the Bar, a new opponent in a characteristically long and complex case showed you his back-sheet. His predecessor, on being jammed and handing it on, had scribbled: "This case is a nightmare. Graham Anderson is on the other side so it has no hope of settling."

Through Peter Liddell, Your Honour inherited a Bar lineage going back to Sir Charles Lowe, who signed the Roll as number 95 in May 1906. Liddell read with Richard Newton; who read with Sir Alistair Adam; who read with Sir Wilfred Fullagar; who read with Sir Charles Lowe.

Your Honour built on the foundation of your 12 months in Peter Liddell's chambers – and you passed on that learning and tradition to your own six Readers.

You developed, as we've heard, a broad, general commercial practice specialising in commercial arbitration, engineering and construction contracts. When, in November 1989, you took Silk, you described your areas of practice as Commercial, Equity and Commercial Arbitration.

Your Honour adhered to the cab-rank rule. In your early years, although building a Commercial and Equity practice, you accepted a brief in the Supreme Court in a nuisance case.

Your Honour represented one neighbour in Mount Eliza who sued another in nuisance on account of the quacking of the second neighbour's daughters' pet duck, "Sherbert".

Mr Justice Oliver Gillard gave Your Honour a hard time on the statement of claim:

- "How do you '*cause*' a duck to quack?"
- Your Honour: "Perhaps the drafting should have been 'permitted or suffered' the duck to quack"



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The case was heard and decided by Mr Justice Tom Smith, who was Acting Chief Justice at the time.

The case was not only the headline, but front-page news!

The posters advertising that day's paper – had, in inches-high, bold, capital letters: "SHERBERT THE DUCK [in black] JUDGE DECIDES [in red]".

Mr Justice Smith granted the injunction and the neighbour's daughters, aged 11, 10, 5 and 3 had to give away their pet.

Your Honour was even less-pleased, two years later, to be briefed – again in nuisance; again in the Supreme Court – this time it was a bantam rooster in North Balwyn – and you won again!

Your Honour practised as a barrister for 28 years – more than 8 of those years as a Silk.

In the world of long and complex building, construction and engineering cases, Your Honour was a past master at breaking-down the most complex tangle of a case to a series of individual issues – giving you and your Juniors at least a fighting chance of getting their heads around them.

The Solicitor-General has spoken of Your Honour's key role in this court in the establishment of the Commercial List.

Your Honour came to this Court in 1998 from a high-level Commercial and Equity practice to 6 months in Crime and 6 months in the Civil jurisdiction, including serious injury cases.

You'd never seen a jury, except in films; and personal injuries cases were a mystery!

The July 2006 establishment of the Commercial List must have seemed a very long way off.

You went on Circuit for 2 months each year at Warrnambool, Wangaratta, Wodonga, and occasionally Bendigo.

In one Circuit at Warrnambool, in four weeks, (in addition to the usual fodder) 13 serious-injuries cases were tried to conclusion. Your Honour delivered judgments in all those 13 cases by the end of the Circuit.

As with every Judge of this Court, Your Honour presided over criminal cases that brought you into the media glare.

In 1990, a former medical practitioner pleaded to reckless conduct placing his wife in danger of serious injury – by having unprotected sex with her when he knew he was HIV positive.

Your Honour imposed a minimum three-year term of imprisonment – and was criticised in an Op-Ed piece which asserted that "unsafe" sex is not, in fact, "unsafe".

In gratifying contrast to the all-too-often-uninformed commentary in the press, - many medical researchers, academics and clinicians leapt publicly to Your Honour's defence.

Your Honour is known as a conscientious Judge of remarkable industry – the more remarkable because of your parallel other lives as prodigious reader and book collector; and as an athlete.

The Solicitor-General has spoken of Your Honour's generous gifts from your book collection to the State Library of Victoria. The Graham & Anita Anderson Collection is kept together as part of the State Library's Rare Books collection.

Your collection is the more remarkable because so many are signed. An article on "the County Court judge whose love of literature knows no bounds" begins: "A kindly bespectacled gentleman asked me at a recent event to sign a copy of my first novel."



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Your Honour flew to the Adelaide Writers Week with your complete collection of Ian McEwan's books – 40 volumes. Cheerfully, he signed them all.

So also with V S Naipaul – timidly, Your Honour and Anita presented yourselves at the Hyatt, where the Naipauls were staying. You wheeled in your suitcase with all-27 of his first editions – and he signed them all.

The “kindly bespectacled gentleman” and his wife have proven irresistible and MANY authors have signed.

Your Honour's collection of thousands of volumes in the State Library and thousands at home is also remarkable because you had to start again from scratch after the 1983 Ash Wednesday bushfire destroyed your home and everything in it.

Your Honour describes yourself as a “cross-country walker”.

In your first sabbatical from the Court, you completed the The Australian Alps Walking Track – 680 ks in 38 days – from Walhalla in Victoria through the high country – the rugged, remote alpine country – of Victoria, New South Wales and the ACT.

Your Honour's wife Anita is Latvian. Your Honour speaks Latvian; and you describe your many long walks up and down, and across, Latvia as your way of “honouring Anita's homeland”. We're talking serious walking: 750 ks in 24 days; 380 ks in 11 days; and 370 ks in 11 days.

And you walk and run for charity:

- When you decided to try a marathon, it was the November Marysville Marathon fundraiser that arose out of the Black Saturday bushfires;
- You also kayaked in the inaugural Murray River Marathon – 404 ks in 5 days – a fundraiser for the Red Cross;
- And there's the Oxfam 100 k Trailwalker in April through difficult terrain in the Dandenongs and Yarra Ranges,
- Finally- although not for charity, Your Honour has joined in holding up the Court's end in the annual Legal Fun Run – for years placing first in the walk and then, when they stopped timing Walkers, placing very highly in your age division in the run.

Your former Reader Graeme Hellyer introduced you to Rogaining in 1993 – the sport of long-distance cross-country orienteering in, typically, a concentrated 24-hours.

Your Honour is the junior member of the Rob Taylor and Tim Dent (both in their 70s) team in the Ultra-Veteran's Category of the World Rogaining Championships.

In 2013, in Russia, the team won Silver; in 2014, in the Black Hills of South Dakota, Gold; in 2015, in Lapland, Bronze. You compete next in August – with the special bonus that the World Championships will be, for the first time, in Latvia.

Closer to home, Your Honour is currently participating in the County Court “steps” program – for the most number of “steps” over 35 days. I understand that, at last count, Your Honour had clocked 900,000 steps – and, incredibly, that there were then three people ahead of you.

Your Honour has served as a Judge of this Court under three Chief Judges – Chief Judges Kidd, Rozenes and Waldron. You appeared as Counsel before the first Chief Judge, Judge Whelan; and before the last Chairman of County Court Judges, Judge Leo Dethridge.

On behalf of the Victorian Bar, I thank Your Honour for your life of professional service in the Law to date. I say “to date” because I understand that, after a break, Your Honour will be returning for a time as a Reserve Judge.



Your Honour's birthday is next Monday – you share the day this year with the Queen's Official Birthday – hence your formal retirement from the Court now on account of the imminent operation of the Statute

On behalf of the Victorian Bar, I wish Your Honour, your wife Anita, and your family, joy in your part time retirement; and more joy, and a long and fulfilling full time retirement upon completion of Your Honour's further service as a Reserve Judge in due course.

May it please the Court.